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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,946	03/18/2004	Osamu Igarashi	118488	5162
25944	7590	08/27/2004	EXAMINER	
OLIFF & BERRIDGE, PLC P.O. BOX 19928 ALEXANDRIA, VA 22320			TRIEU, THAI BA	
			ART UNIT	PAPER NUMBER
			3748	

DATE MAILED: 08/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/802,946

Applicant(s)

IGARASHI ET AL.

Examiner

Thai-Ba Trieu

Art Unit

3748

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 11 and 12 is/are rejected.
- 7) ☒ Claim(s) 2-10 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 03/18&08/03/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 11-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Schorn (Patent number DE 199 05 112 A1).

Regarding claims 1 and 11, Schorn discloses a control apparatus for an internal combustion engine (1) , comprising:

a supercharger (9) connected to an intake passage (7) of the internal combustion engine (1) and driven by a motor (17) (See Figure 2);

a bypass passage (6) which is provided for the intake passage in such a manner as to bypass the supercharger (9) (See Figure 2);

a flow amount adjustment device (15, 16) which arbitrarily adjusts a flow amount of air flowing through the bypass passage (6) by being driven electrically; an operational state detection portion which detects an operational state of the internal combustion engine (See Figure 2); and

a driving time decision portion which decides a time at which the flow amount adjustment device is driven, based on a result of detection performed by the operational state detection portion (See Figure 2, Column 3, lines 62, and Column 4, lines 1-37);

wherein the flow amount adjustment device (15,16) is provided in the bypass passage at a portion on an upstream side of a portion at which the intake passage and the bypass passage are combined (See Figure 2).

Regarding claim 12, the method as claimed would be inherent during the normal use and operation of Schorn device as disclosed (See Figure 2, Column 3, lines 62, and Column 4, lines 1-37).

Claim 12 is rejected under 35 U.S.C. 102(b) as being anticipated by Andrepont, Jr. et al. (Patent Number 5,427,079).

Andrepont discloses a control method for an internal combustion engine which includes a supercharger and a bypass passage which is provided for the intake passage in such a manner as to bypass the supercharger, comprising:

detecting an operational state of the internal combustion engine; and

deciding a time at which the bypass passage is closed, based on the detected operational state (See Column 10, lines 11-49).

Allowable Subject Matter

The IDS (PTO-1449) filed on March 18, 2004 and August 03, 2004 have been considered. Each initialized copy is attached hereto.

Claims **2-10** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


- Woollenweber et al. (US Patent number 6,079,211) disclose a two stage supercharging systems for internal combustion engines.
- Baeuerle et al. (US Patent number 6,688,102 B2) discloses a method and device for operating an electrical supercharger.
- Tokushima et al. (US Patent number 4,589,396) disclose a supercharger control in automobile engine system.
- Satow et al. (US Patent number 4,498,429) discloses a fuel intake system for supercharger engine.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thai-Ba Trieu whose telephone number is (703) 308-6450. The examiner can normally be reached on Monday - Thursday (6:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion can be reached on (703) 308-2623. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TTB
August 26, 2004



Thai-Ba Trieu
Patent Examiner
Art Unit 3748